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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/748,441
Filing Date: December 29, 2003
Appellant(s): COOKSON ET AL.

Irvin E. Branch
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/13/2009 appealing from the Office action mailed

11/12/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1, 7-15, 18, 19, 21-34, 36, & 38-41, rejected under 35 U.S.C. §102(b) as being anticipated by Huff (US 2002/0032687 A1).

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 11/12/2008 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0032687 A1   HUFF   3-2002

| 4,501,559 A | GRISWOLD et al. | 2-1985 |
| 6,389,429 B1 | KANE et al. | 5-2002 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-15, 18, 19, 21-34, 36, & 38-41 are rejected under 35 U.S.C. 102(b) as being

anticipated by Huff.

Huff discloses a computerized system and method for creating a family tree, comprising:

receiving genealogy data from at least one primary source at a host computing system (Para.

0027 & 0014), creating one or more node records and link records using the data (Para. 0028),

where individual node records include at least name data (Para. 0036) and link records include

data that represents a relationship between individual node records (Para. 0098); comparing

individual node records and identifying pairs of records having similar data; comparing each

identified pair of node records having similar data, and deciding based on predetermined criteria

whether the identified records represent the same person; consolidating the information from a

plurality of records into a single person record (online accumulation and comparison of data

from multiple sources with the goal of accurate linking to overcome duplication, Para. 0123;

Predetermined criteria in Para. 0164) by at least in part adding information from a plurality of

records determined to represent the same person to the single person record (In prior

genealogical databases, each name on the search list allows entry into a different pedigree structure that can be navigated and examined. It would be better to consolidate the data and minimize the number of names one needs to examine, Para. 0155; When submissions overlap, duplicate names should have the benefit of connections to data in both submissions. So, when someone "deletes" a duplicate name, that person would also have the responsibility to see that all the right connections from the remaining name were made into the other submission that he was partially deleting; the process being discussed is the third-party ADD LINK process that connects related submissions together, Para. 0158-9); receiving a request from a user computer to display a family tree (Para. 0210); using the link, node, and single person records to create a data representation of the requested family tree; and sending the data representation to the user computer for display (Para. 0209) [Claims 1 & 15].

Huff discloses where the genealogy data is selected from a group consisting of a birth certificate database and a death certificate database (birth, marriage, death, burial, and so forth, Para. 0100), a census database (Para. 0091), and a family history records database (Home PC data, Internet data, Ancestral File, and International Genealogical Index, Para. 0089) [Claims 7 & 21].

Huff discloses receiving genealogy data as a GEDCOM file (Para. 0024) [Claims 8 & 22].

Huff discloses where the records are used to create a file comprising the requested family tree including alternatives for relationships for display to a user, comprising: receiving a selection representing a user choice among the alternatives (when family connections are discovered in the database, a separate set of links can be created to complete those ties between all descendant collections, Para. 0116); using the selection to update the family tree (Para. 0088); and storing the selection (Para. 0091) [Claims 9 & 23].

Huff discloses receiving new information that changes the family tree; and providing the

user an opportunity to revise the selection (adding extra data for names already in the database

and/or making corrections to data, Para. 0218) [Claims 10 & 24].

Huff discloses receiving information from a user, comprising a selection for the group

consisting of a digital picture, a text file, genealogy data, a user-entered text file, a sound file, a

video file, and a computer-readable file 'Para. 0036); and storing the information where it is

available to other users (storing names and data of people; displaying genealogical data to a

plurality of users, Para 0036) [Claims 11 & 25].

Huff discloses receiving additional genealogy data subsequent to sending the file to the

user computer (allows any interested party to add links between database names without

making changes to the submission data, Para. 0100; changes are inherently made subsequent

to the submission data having been sent to the user's computer); and notifying the user of the

changes (automating the notification for genealogy research, Para. 0100) [Claims 12 & 26].

Huff discloses where notifying the user comprises a selection from the group consisting

of: displaying a notification to the user upon the user accessing the host system (Online

"Auction" or Bulletin Board" Facility, Para. 0214-0215; also, Fig. 4 for the display) [Claims 13 &

27].

Huff discloses receiving a request from the user computer to send more detailed

information relating to the family tree, subsequent to sending the file; using the records to

compile the more detailed information; and sending the more detailed information to the user

computer (all at Para. 0094; also Para. 0117-0118) [Claims 14 & 28].

Huff discloses where the individual node records span a single generation (main table

Person_T contains the name and basic identifying items assigned to that {one} person, Para.

0135) [Claim 18], or multiple generations (Links_T table contains links to the all the name

records in the family, Para. 0137; Links_T can be used separately from the Person_T name

data record, Para. 0138) [Claim 19].

Huff discloses a computerized system and method for creating a family tree, comprising:

receiving data at a host computer system (central server, Para. 0027) that defines a plurality of

personas (having a capacity for storing names and data on up to 10 billion people, Para. 0036),

where the data comprises one or more assertions {events or attributes, or other presumed

truths about a persona} for each persona, where each persona represents a person (events

such as birth, marriage, death, or burial; attributes such as health, medical, and genetic data; all

in Para. 0100); storing each persona as a persona record (Para. 0028); receiving a request from

a user at the host computer to provide a family tree (Para. 0210), where the request comprises

at least one assertion (Indexing and cross-reference; Para. 0170-0183); identifying an initial

persona record and performing an analysis to infer any relationships with other persona records

using the assertions of the initial persona record and the other records (comparing indexed

records having the same source notation, such as census record or land record entries, Para.

0172); if inferred, assigning at least one relationship type to the relationship between the

records (links to tie together family connections, Para. 0116); using the persona records and the

relationship types to construct a family tree (pedigree charts, Para. 0206); and sending the file

comprising at least a portion of the family tree to the user for display (server would take the

selected data and create the image in the appropriate player, Para. 0209) [Claims 29 & 39].

Huff discloses repeating the attempt to infer and assign types for the other persona

records until no additional relationships are inferred (the process {of minimizing duplication} is

cumulative, Para. 0163) [Claim 30].

Huff discloses where the initial persona record is identified using the last name provided

by the user (index to surname, Para. 0039; user would indicate the {initial} name to begin with,

Para. 0210) [Claim 31].

Huff discloses where the relationship analysis is performed prior to receiving the request

from the user (the computer and professional participants would do most of the work

{consolidating the data} before the users even looked at the data, Para. 0155) [Claim 32].

Huff discloses where the assertions for a particular persona record originate from a

single source (such as the IGI, a large database containing some 300 million names and linking

data, Para. 0089) [Claim 33].

Huff discloses where the single source comprises a selection from the group consisting

of a census record, a user input (manual conversion from raw source records input data, Para.

0090), and a government record (Internet data, Para. 0089; which includes U.S. decennial

censuses, Para. 0091; and see www.census.gov) [Claim 34].

Huff discloses where the relationship types comprise a selection from the group

consisting of a same person, or a spouse (Para. 0098, 0137, and 0213) [Claim 36].

Huff discloses where assertions comprise a selection from the group consisting of name,

birthday, and death day (Para. 0135), and birth city (birth place, Para. 0044) [Claim 38].

Huff discloses where the request from the user comprises at least a name Para. 0210)

[Claim 40].

Huff discloses where the host computer is operable to perform the relationship analysis

in response to a request from the user (Ancestral File previously used automatic comparison

process, Para. 0165-0166) [Claim 41].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huff, in

view of Griswold et al., hereinafter known as Griswold.

Huff teaches using the genealogy data to create surname records (Person_T database

table, Para. 0135), including a surname (Para. 0039), and data representing the number of

times the corresponding surname is encountered in the genealogy data (the computer counts

the connections of the old name to be deleted, and then counts the connections of the name to

replace it, Para. 0164), and using the surname records to partition the individual node records

into groups prior to comparing the individual node records (the new name must have as many

links as the old name {to replace the old name's record}, Para. 0164-0165, the counting and

comparison of the new name's group inherently occurs after the counting of the old name's

group, because of the use of the word "then") [Claims 2 & 16].

What Huff fails to explicitly teach is where the data representing the number of times the

surname is encountered is part of the surname record. However, Griswold teaches the art of

including the number of times a surname is encountered in the data into a data record (surname indicator on genealogy chart, 5:44-48, using Arabic numerals, 6:26-46). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have added a data field to Person_T table of Huff representing the number of times the surname was encountered, as taught by Griswold, in order to avoid recounting the surname instances on every access of the data, thereby saving processing time, and also to keep an index to the maternal families whose surname is often obscured by marriage [Claims 2 & 16].

Claims 3-6, 17, 20, 35, & 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huff, in view of Kane et al., hereinafter known as Kane.

Huff teaches all the features as demonstrated above in the rejection of claims 1, 15, & 29. Huff also teaches where the individual node records span a single generation (main table Person_T contains the name and basic identifying items assigned to that {one} person, Para. 0135) [Claim 5], or multiple generations (Links_T table contains links to the all the name records in the family, Para. 0137; Links_T can be used separately from the Person_T name data record, Para. 0138) [Claim 6].

What Huff fails to teach is where comparing the individual node records and identifying pairs of records having similar names comprises calculating a score representing the likelihood that the identified pair of individual node records represent the same person [Claims 3 & 17], and where comparing and deciding whether the identified pair of individual node records represent the same person comprises revising the score [Claims 4 & 20], and using the assertions of the initial persona record to assign a score to each relationship, where the score represents a likelihood that the relationship correctly reflects a relationship between the persons represented by the personas [Claim 35] and assigning assertion scores to the assertions, which

reflect a likelihood that a particular assertion correctly reflects an analogous assertion of the

person represented by the persona [Claim 37]. However, Kane teaches a system and method

for creating and maintaining a database of persons based on a multiple source database, where

the relative accuracy of data elements is ranked, and comparisons are made of the data fields in

order to rank the source and target database records, to identify the most closely matched

database record. If such a record is identified, the fields having a higher ranking than the fields

in the target database are updated (abstract). Therefore, it would have been obvious to one of

ordinary skill in the art, at the time the invention was made, to have quantitatively scored the

persona records and assertions of Huff to accurately predict whether the records described the

same person, and to have scored the assertions to decide which to link to the final persona

record in the finished database, using the system and method of Kane, in order to keep the

information from being and replicated, and also in order to keep the persona records up-to-date

[Claims 3-6, 17, 20, 35, & 37].

(10) Response to Argument

Issue 1. Rejection of claims 1, 7-15, 18, 19, 21-34, 36, & 38-41 under 35 U.S.C.

§102(b) in view of Huff.

The rejection of claims 1, 7-15, 18, 19, 21-34, 36, & 38-41 under 35 U.S.C. §102(b) in

view of Huff are proper. Para. 0098 states that the central server database of Huff provides

space to store information about individuals, including storage of internal name-linking records,

the records comprising a person-identifying number, a code showing his or her relationship with

another person, [in the database], and the number of that other person; there is one record for

each relationship between one person and another. Para. 0098 of Huff further defines Shadow

Delete Records as records for removing duplicate names from the normal search and viewing

process to minimize efforts users must expend to find the desired data.

Para. 0123 states that the raw data of Huff is accumulated online and compared with multiple sources for the goal of accurate linking births, deaths, and the like, in order to allow for alternate data interpretations to be reached with loss of contributed data.

Para. 0164-169 of Huff state that the deletion of person data is carried out by a spicing/hiding process, composed of the following steps: a delete transaction record is created, containing the identification number of the name to be deleted, the number of the replacement name, the number of the user requesting the deletion, and an indicator setting whether the record is deleted. Before the deletion record is set and stored, the computer system of Huff counts the relationship records of the name to be deleted as well as the relationship records of the name to replace it, and noting the type of relationship of the links. The new name must have at least as many links "backward" (meaning "backward" chronologically, by pedigree; i.e., the same number of ancestors), plus "sideways" (meaning contemporaneously; e.g., spouses of the person) and "forwards" (meaning "forward" chronologically, by pedigree; i.e., children of the person) as the name to be deleted. Huff states that, to limit search time, the new name search need only go back far enough to prove a match (rather than traverse the tree back to the top node; "equal or greater then [sic] the old name" meaning the new name must have at least as many relationship records of the same types, which accounts for some person records being more genealogically complete than others). Huff further states that automatic (deletion) processes are known; however, inaccuracies due to fully automatic processes must be balanced with the care and thoughtfulness of a manual "hand link" done by a professional genealogist. Huff states that once a point of intersection of person records in a family branch is uncovered, the "check-search" of the overlapping names can stop once a "deleted" record is encountered; in this way, the search tree may be pruned in order to more quickly validate the proposed delete transaction.

What Huff discloses is searching the name-lining information when new unverified data is added to the master database; identifying person records having the same name-identifying numbers and similar ancestral, spousal, and child criteria; deciding if the record represents a duplicate person record, based on the delete transaction data; where the names and numbers of such spousal and child links are "predetermined criteria", due to the fact that they are previously entered and stored in the database at the time of comparison; and inferring if two records represent the same person, based on the connecting data of spouses and children, by counting the number of such relationships; and further, if determining that the records do, in fact, represent the same person, setting the indication of the delete transaction "on", thus linking the records; this linking being assigning an "equality" relationship type between records (in that an indicator is set to hide the lesser of the two records, when determined they identify the same person), and a consolidation of the records, because thereafter only the more complete record is available.

Office does not agree that the term "predetermined criteria" is misinterpreted or tortured to fit Huff's teachings. Appellant's specification at pages 10-11, Para. 0038-40, define predetermined criteria as merely numerical probabilities correlating the likelihood that two records represent the same person. Thus, the predetermined criteria of the instant claims is quite broad and reflects upon determining the likelihood that two records represent the same person by counting the number and type of relationships of the records in question; the relationships being predetermined in the data files to be amalgamated, as well as predetermined in the sense that the process for determining likelihood is defined in advance of performing the comparison. Huff is thus reasonably understood to use Appellant's disclosed step of having some predefined probability that, in view of other incidental data in the two

records, the two records represent the same person. Thus, Huff appears to disclose all the

limitations of the disputed claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Nikolai A Gishnock/

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